

# FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

333 W. COLFAX AVENUE, SUITE 400  
DENVER, COLORADO 80204

**AUG5 1986**

SECRETARY OF LABOR,	:	CIVIL PENALTY PROCEEDING
MINE SAFETY AND HEALTH	:	
ADMINISTRATION (MSHA),	:	Docket No. CENT 85-36-M
Petitioner	:	A.C. No. 39-00055-05539
	:	
<b>v.</b>	:	Homestake Mine
	:	
HOMESTAKE MINING COMPANY,	:	
Respondent	:	

## DECISION APPROVING SETTLEMENT

Before: Judge Lasher

The parties have reached a settlement of the four violations involved in the total sum of **\$8,290.00**. MSHA's initial assessment therefor totaled **\$11,040.00**.

The terms of the settlement are as follows:

<u>Citation</u>	<u>Assessment</u>	<u>Settlement</u>
2097234	\$10,000.00	<b>\$8,000.00</b> (fatality)
<b>2097564</b>	<b>1,000.00</b>	250.00
<b>2097965</b>	20.00	20.00
<b>2097966</b>	20.00	20.00

This settlement is approved for the following reasons:

With respect to Citation No. 2097234, it appears that the workman who had fallen to his death would have not have fallen had he used a safety belt. While his foreman was aware he was not utilizing the safety belt, nevertheless it appears he had been issued a safety belt by Respondent, and instructed as to the need and use of such. In view thereof, the 20% reduction from the statutory maximum penalty (\$10,000) appears justified and this compromise is approved. For the same reasons the reduced penalty for Citation No. 2097564 (failure to install a handrail) is also approved.

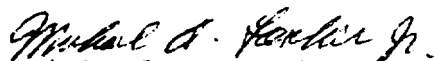
I take notice from prior matters involving this Respondent that, in terms of size, Respondent is a large gold mine operator. It also appears from the settlement motion that Respondent abated the violative conditions and demonstrated "a good faith desire to comply with the health and safety standards in the future.

Citation Nos. 2097965 and 2097966 were not the subject of reduced penalties.

The settlement, viewed in its totality, involves a substantial penalty sum, and the reduction of the penalties for the major violations appear warranted in the circumstances.

ORDER

Respondent, if it has not previously done so, is ordered to pay **\$8,290.00** to the Secretary of Labor within 30 days from the date of this decision.

  
Michael A. Lasher, Jr.  
Administrative Law Judge

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